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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/677,152	10/02/2000	Robert C. Gallo	4115-116 DIV 4	4147

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW  
PO BOX 14329  
RESEARCH TRIANGLE PARK, NC 27709

EXAMINER

STUCKER, JEFFREY J

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 09/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 7/7/03
- ☐ This action is FINAL.
- ☒ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 40, 42, 44-49, 68, 71, 73, & 82-86 is/are pending in the application.
- Of the above claim(s) 45-49 is/are withdrawn from consideration.
- ☒ Claim(s) 40, 42, 44, 68, 71, 73, & 82-86 is/are allowed able.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other \_\_\_\_\_

Office Action Summary

This Quayle Action is in response to the Response to Final Rejection filed 7/7/03. Claims 40, 42, 44-49, 68, 71, 73, and 82-86 are pending. Claims 40, 42, 44, 71, 73, and 82-86 are allowable.

This application contains claims 45-49, 68, 71, and 73 drawn to an invention nonelected with traverse in the amendment filed 11/22/02 in response to a telephone conference on 11/20/02.

Applicant has requested rejoinder of the non-elected claims with the elected invention. Applicant's request is honored in part and refused in part.

Claims 68, 71, and 73 are commensurate in scope with the allowable product claims and will be rejoined.

Claims 45-49 will not be rejoined on the grounds that the process claims are not commensurate in scope with the allowable product claims, as per the Commissioner's Notice of February 28, 1996 published on March 26, 1996 at 1184 O.G. 86 ("Withdrawn process claims not commensurate in scope with an allowed product claim will not be rejoined"). Specifically, these claims do not have the specific MW fractions set forth in the product claims. In addition, the presence of trademarks are noted.

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On a minor point, it is noted that claim 45 does not end with a period.

Papers related this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG (November 15, 1989).

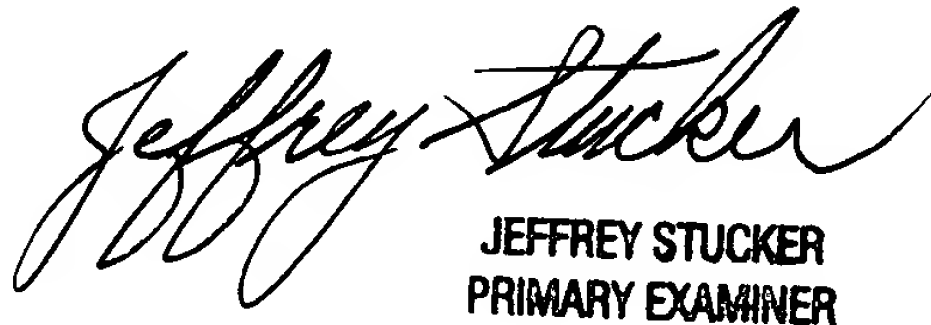
The Group 1600 Fax numbers are: (703) 308-4242 and (703) 305-3014.

Unofficial communications may be faxed to: (703) 308-4426.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Stucker whose telephone number is (703) 308-4237. The examiner can normally be reached Monday to Thursday from 7:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached on (703) 308-4027.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center Customer Service representative whose telephone number is (703) 308-0198.

  
JEFFREY STUCKER  
PRIMARY EXAMINER